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Senate Judiciary Committee Turns to School Prayer Issue

Hearings in the Senate Judiciary Committee last week focused fresh attention on the issue of school prayer. The hearings brought to light some of the most recent and most extreme forms of restrictions on religious expression in the schools.

At hearings on April 28, eight students from across the country testified about their efforts to get together with fellow students, during club period or before and after school, to study the Bible or pray together. A recurring theme was that, in one community after another, ACLU suits or threats to sue have forced school officials into banning from school property all forms of religious activity, no matter how voluntary.

- o Bonnie Bailey, a senior at Lubbock High School (subject of the recently successful ACLU suit decided in the Fifth Circuit), described how her before-school student prayer group had never drawn any protests from fellow students.
- o A widely-carried UPI wire story quoted her as saying, "We can picket, demonstrate, curse and take God's name in vain, but we can't voluntarily get together and talk about God at school. I can decide if I want an abortion or use contraceptives, but I can't decide if I want to come to a meeting to talk about religious matters before or after school. To me, that just isn't fair."
- o Another student testified that her social studies class brought in a prostitute to talk about "alternative lifestyles", yet the students could not be exposed to religious lifestyles.
- o An ACLU attorney testified that most of the religious activities described by the students were "dangerous"

These hearings should give impetus to the Denton/Hatfield equal access approach that we endorsed before the National Association of Evangelicals -- legislation saying that schools may not discriminate just because students' speech is religious in content.

Senator Denton has agreed not to have a vote on his equal access bill until after a vote on our school prayer amendment. We can use the hearings to build momentum for both a school prayer amendment and possible statutory approaches.

Many people still do not know the lengths to which state exclusion and hostility toward religion have been carried by the federal courts. To the extent we get the facts out in public, we have strong potential support for correcting judicial distortions of the law.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 6, 1983

FOR: EDWIN L. HARPER
FROM: WILLIAM P. BARR
SUBJECT: Detroit Quota Case *WPS*

Last Thursday, the Attorney General decided that it was necessary to file a brief in the Detroit quota case, and he signed the necessary intervention papers. The panel in the Detroit case had reached a decision that was directly contrary to the position DOJ had taken in the New Orleans case. It appears that the Detroit case is on a faster track to the Supreme Court than the New Orleans case, and therefore to preserve the government's position, it was necessary for a brief to be filed in the Detroit case.

Friday, the day after the AG made the decision, Brad Reynolds and his deputy met with Clarence Thomas and his general counsel. They explained the DOJ position and gave them a copy of the draft brief. The EEOC people raised the same objections that they had in the New Orleans case.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 6, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Presidential Letter to Paul Weyrich Concerning
Political Action Committees

We have a draft letter ready for circulation, to respond to Paul Weyrich's inquiry concerning the President's position on legislative restrictions directed at political action committees. I have already gotten approval of Ed Rollins, Morton Blackwell, and Fred Fielding, but Fred has asked that the letter be formally staffed to obtain views of all interested offices.

I have prepared a package to send to Darman should you wish to have the letter circulated.

THE WHITE HOUSE

WASHINGTON

May 9, 1983

MEMORANDUM FOR RICHARD DARMAN

FROM: EDWIN L. HARPER

SUBJECT: Presidential Letter to Paul Weyrich
Concerning Political Action Committees

Attached is a proposed draft for a letter from the President in response to Paul Weyrich's inquiry concerning political action committees. The letter repeats the President's stance of two years ago in opposition to legislative moves to place additional restrictions on political action committees.

I have attached copies of (1) Weyrich's letter to the President dated January 31, 1983 and (2) an earlier letter from the President to Weyrich, dated June 2, 1982, concerning the same topic.

Would you please staff this letter to the appropriate offices for their review.

Dear Paul:

Thank you for your letter concerning congressional efforts in the 98th Congress to restrict the activities of political action committees and individuals who participate in the electoral process. I share your conviction that the freedom of all Americans to express their views in the electoral process is among the most precious of our rights as American citizens.

Apparently, some who disagree with my view are making an effort in the 98th Congress to restrict the ability of groups of citizens to participate effectively in the electoral process. You ask my view now of legislation to limit the amount of money that groups of citizens can give to candidates, to limit the amount that candidates can receive from such groups, to begin taxpayer financing of congressional campaigns, and to restrict independent expenditures by voluntarily supported organizations.

Overregulation of citizen involvement is a serious danger to an open and free democratic process. I have stated my firm opposition to the Obey-Railsback bill, which failed to pass the 96th Congress. I will certainly oppose any similar legislation in the future.

Intrusive limitations on our freedom to engage in political, electoral speech must be avoided. The essence of a free society with a republican form of government is for citizens to be free to work together voluntarily to express their views. How else can they hope to guide the government toward the course they prefer?

I believe that the attention of our legislators in this area should focus on improving the opportunities of people to participate openly and honestly in the political process without harrassment from a federal bureaucracy.

Our election laws today are too complex. They give too many opportunities for regulators to trip up even the most careful candidates. It is too easy for selective enforcement to target any candidate or committee based on technical violations.

True reform would simplify our election laws, not complicate them. In addition, the dollar limits on contributions put in place in the early 1970s have been drastically eroded in value by inflation. A maximum allowed contribution of \$1,000 ten years ago is worth less than half that today. We obviously need to raise the dollar limits to account for the effects of inflation.

I appreciate your support for improving our democratic process and opposing any efforts to overregulate our elections.

If it comes to a fight in this Congress, you can count on me to fight.

Sincerely yours,

Ronald Reagan

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 9, 1983

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Status Report on Internal EEO Reform
(Ref. #133428)

The options memo is still being developed by EEOC and has not been sent to OMB. However, the paper is well under way, and OMB is working with EEOC on it.

Horowitz expects a final paper by the end of this month.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUMDATE: 5/2/83 ACTION/CONCURRENCE/COMMENT DUE BY: May 9, 1983SUBJECT: Internal EEO Reform

	ACTION	FYI		ACTION	FYI
HARPER ✓	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BLEDSON	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	OTHER		
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GALEBACH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GARFINKEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LI	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ROCK	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ROPER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Status report.

Please return this tracking
sheet with your responseEdwin L. Harper
Assistant to the President
for Policy Development

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

April 7, 1983

BU/5/1
+ Ask Mike U
for Status Report

FOR: EDWIN L. HARPER
FROM: MICHAEL M. JOHLMANN
SUBJECT: Internal EEO Reform

The issue is whether to centralize in EEOC the processing of EEO complaints made against federal agencies. OMB and EEOC favor centralization, for reasons of efficient allocation of resources, and speed and fairness in the resolution of complaints. (See attached memo.) I concur.

Clarence Thomas is now preparing a memorandum outlining the options for how to achieve this end.

- o Centralization can be performed by Executive Order, since processing of complaints was originally assigned to agencies by an Executive Order.
- o Another option is to do it by EEOC regulation -- but an Executive Order is a more appropriate way to make a change that affects all executive branch agencies.

EEOC should have its written proposal to OMB by late April. OMB plans to negotiate with EEOC over the additional budget resources that EEOC will need to carry out additional responsibilities in processing federal complaints.

I suggest we leave the initiative in the hands of OMB and take a good look at EEOC's proposal when it arrives.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 9, 1983

FOR: EDWIN L. HARPER

FROM: MICHAEL M. *M* HELMANN

SUBJECT: Summary of Comments on "Federal Equal Employment Opportunity Programs"

1. Reynolds:

- o Endorses as "good piece".
- o Notes a few suggested changes -- all good points, but none going to substance.

2. Collyer:

- o Makes general comment that the paper is "negative and defensive" and that the "press would kill us with the help of the interest groups."
- o Makes general suggestion that statement should emphasize "positive aspects of the President's view of equal opportunity and affirmative action, i.e., goals are not quotas."
- o Offers no specific comments.

3. Bradley:

- o Seems to question:
 - whether EEO has come to mean "quotas";
 - the extent to which quotas are a problem;
 - whether impulse behind quotas was to address overall plight of disadvantaged.
- o Suggests that:
 - the President has reaffirmed his commitment to affirmative action;
 - affirmative action includes "nonpreferential, nonquota goals";
 - a majority of Americans support affirmative action.

- o Suggests that "quotas are used as a remedy for discrimination, not as a general affirmative action tool" and that the paper merges these two concepts.

4. Horowitz:

- o Endorses paper as "excellent restatement" of President's position.
- o Makes only two specific comments -- neither of which go to the substance.

THE WHITE HOUSE

WASHINGTON

May 9, 1983

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES
ATTORNEY GENERAL
SECRETARY OF EDUCATION
DIRECTOR OF ACTION
DIRECTOR OF THE OFFICE OF MANAGEMENT & BUDGET
ASSISTANT TO THE PRESIDENT FOR PUBLIC LIAISON
VICE PRESIDENT'S DOMESTIC POLICY ADVISOR

FROM:

ROBERT B. CARLESON
MICHAEL M. UHLMANN

We are setting up a joint working group under the Cabinet Council on Human Resources and the Cabinet Council on Legal Policy to examine federal policy as it affects children.

We will examine policy areas such as the support of children from broken homes, the economic ability of families to support children, federal policy toward foster care and adoption, child abuse, familial or institutional care for handicapped children, and family planning programs.

We will hold an initial meeting this Thursday, May 12, to consider one particular issue that has recently come to our attention, the interstate kidnapping of children. There will be a short presentation on the extent and nature of this problem, and a discussion of possible courses of action.

Our meeting will be held at 4:00 p.m. Thursday in Room 248, OEOB. Please call Tricia Patterson at 456-6520 and let us know who your representative will be at the meeting.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 3/27/83 ACTION/CONCURRENCE/COMMENT DUE BY: FYI

SUBJECT: New Working Group on Children

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BLEDSON	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
<u>CARLESON</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OTHER		
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GALEBACH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GARFINKEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LI	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ROCK	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ROPER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
UHLMANN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

OK!

EBL → S. GALEBACH
 PLS. PREPARE A MEMO
 FOR ME TO SEE THIS
 W.P. BR

Edwin L. Harper
 Assistant to the President
 for Policy Development
 (x6515)

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

March 21, 1983

492
OFFICE OF
POLICY DEVELOPMENT
1983 MAR 22 P 12:56

FOR: EDWIN L. HARPER
FROM: ROBERT B. CARLESON
MICHAEL M. UHLMANN
SUBJECT: New Working Group on Children

Our package on the "52% solution" included the setting up of a working group on policy toward children, in addition to the child care credit and the enforcement of child support. Since issues affecting children come largely within CCHR as well as CCLP, we think a joint working group is the best way to approach the task.

Issues to be addressed by the working group include:

- o Recognizing the needs for support of children from broken families.
- o Accommodating the needs of families to provide for raising and educating children.
- o Family planning program.
- o Child abuse, especially toward handicapped infants.
- o Foster care and adoption.
- o Diminishing the federally created incentives for nonfamily, institutional care for handicapped children.
- o Interstate kidnapping of children for sexual and commercial exploitation.

Members of working group:

- o CCLP and CCHR representatives
 - o HHS
 - o DOJ
 - o Education
 - o HUD
- ok
RA

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 100, 1983

FOR: EDWIN L. HARPER
FROM: MICHAEL M. *mm* HELMANN
SUBJECT: CEA Study Outline on Wage Gap

CEA's outline is thorough, and I'd be hard-pressed to think of anything they excluded. I particularly like the idea of including a chapter on "the feminization of poverty".

It might be useful, in the introduction, to give a rough summary of the opposing sides of the argument, followed in turn by a précis of what CEA discovered when it last studied the problem in depth.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 5/6/83 ACTION/CONCURRENCE/COMMENT DUE BY: 5/9/83 COB

SUBJECT: Outline for Sex Differences in Earnings Paper

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BLEDSON	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	OTHER		
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LI	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please comment on the attached by Monday, COB.

Please return this tracking sheet with your response

Edwin L. Harper
 Assistant to the President
 for Policy Development
 (x6515)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

April 28, 1983

TO: Roger Porter

FROM: Tom Kniesner

SUBJECT: Outline for Sex Differences in Earnings Paper

Here is the outline we discussed this morning. Please let me know when you would like to get together to go over it. I really think that Mr. Harper should be present.

Outline

Sex Differences in Earnings (Approx. 60 pp.)

Introduction

- A. The Issue: Women Have A Much Lower Average Income Than Men
 - 1. Data on sex differences in average earnings
- B. Sources of the Sex Gap in Earnings
 - 1. Women work fewer hours per week
 - 2. Within a given occupation women earn less per hour
 - 3. Women tend to be concentrated in relatively low-paid occupations

II. Theoretical Analysis

- A. The Theory of Labor Supply
- B. The Theory of Wage Determination
- C. The Theory of Occupational Choice
- D. Conclusions
 - 1. Factors to look for in a statistical analysis of sex differences in earnings that are the result of individual choice
 - 2. Measuring sex discrimination in the labor market

III. Statistical Analysis of Sex Differences in Earnings

- A. Sex Differences in Labor Supply
 - 1. The quantitative effects of the economic variables that determine sex differences in hours worked
 - 2. Evidence concerning sex discrimination in work schedules

B. Sex Differences in Wage Rates

1. The quantitative effects of the economic variables that determine sex differences in wages: the special role of labor market experience
2. What can be inferred about the magnitude of sex discrimination in wages?

C. Sex Differences in Occupation

1. The quantitative effects of the economic variables that determine sex differences in occupational choice
2. What can be inferred about the magnitude of occupational segregation?

IV. Public Policy and Sex Differences in Earnings

A. Theoretical Analysis

1. Fair employment practices laws
2. Equal pay legislation
3. Equal educational opportunity laws
4. Comparable worth

B. Evidence on the Effect of Public Policy on Sex Differences in Earnings

1. The U.S.
 - a. Fair employment practices laws
 - b. Equal pay legislation
 - c. Equal educational opportunity laws
 - d. Comparable worth
2. Other countries' experiences with comparable worth laws

V. An Additional, Related Issue: The Feminization of Poverty

- A. What is Meant By the Term: The Feminization of Poverty?
- B. Has Poverty Become "More Feminine" in the U.S. Over Time?
 - 1. Evidence
 - 2. Do the data suggest any need for policy?
- C. Family Structure, Poverty, and Public Policy

VI. Conclusions

- A. Scoreboard: How Much of the Sex Difference in Wages is "Fair" vs. "Unfair"
- B. What Government Policy is Suggested by the Data Presented in this Report?

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 11, 1983

FOR: EDWIN L. HARPER
FROM: WILLIAM P. BARR
SUBJECT: Response to Goldwater Letter Re Indian Policy

When we received the attached letter from Senator Goldwater on Indian policy, I referred it to Assistant Secretary of Interior for Indian Affairs, Ken Smith, to prepare a comprehensive response. Smith is overdue, and I am pushing him to get something to me.

In the meantime, I think we should send an interim response to Goldwater and suggest you recommend this to Duberstein.

EXECUTIVE SUMMARY

- o Some have argued that in recent years the workload of the Supreme Court has become so heavy that it threatens the ability of the Court to discharge its functions in a timely manner.
- o The Chief Justice and other members of the Court have publicly recommended the creation of an intercircuit tribunal as an adjunct of the Supreme Court. A number of bills have been introduced that would create such a tribunal, and while the details of these bills vary, in general they would create for a five-year trial period a national appellate court below the Supreme Court that would hear cases referred to it by the Supreme Court and issue nationally binding decisions.
- o An internal Department of Justice committee considered the various proposals and, with Brad Reynolds dissenting, decided to recommend establishing an experimental intercircuit tribunal whose judges would be sitting circuit court judges selected by the Chief Justice with the approval of the Supreme Court.

Issues

The case for the intercircuit tribunal is set forth in the Justice Department committee's memo by Paul Bator and is based largely on statistical analyses of the Supreme Court's workload.

However, the proposal raises a number of more profound philosophical and policy issues, some of which are touched upon in Brad Reynolds' "reservations" attached to the Bator memo:

- o To a large extent, the Supreme Court may be the author of its own problems. Recent liberal decisions by the Court have greatly expanded judicial power and the judiciary's workload by expanding access to the federal courts, habeas corpus proceedings, private rights of action, Section 1983 suits, supervising state criminal proceedings, and proliferating multiple and inconsistent judicial opinions that provide no guidance to lower courts.
- o One of the few limits on the power of the federal judiciary today is the limited nature of judicial resources. In many cases, it is the prospect of a judicial overload that gives liberal justices pause about expanding federal causes of action. Increasing judicial resources may simply exacerbate the current tendency toward judicial aggrandizement. It does not appear that the Department of Justice committee considered this issue in any detail.
- o Some critics of the Court have asked how a body that takes two-and-a-half months of vacation a year can be said to be overworked.

- o Giving nationwide decision-making power to judges who were appointed and confirmed for regional circuit courts of appeal arguably infringes the prerogatives of the President and the Senate; attention should be given to the constitutional arguments for Presidential appointment of tribunal judges.

- o Any tribunal appointed by the Chief Justice with approval of the full Supreme Court would lead either to a polarized tribunal (one judge to satisfy Marshall, one to satisfy Rehnquist, etc.) or to a bland one tending toward mediocrity as a means to offend no one. Worse, if a strong working majority develops on the Supreme Court at any time in the future, the intercircuit tribunal could be used as an arm to augment Supreme Court power and further enforce the policy preferences of the Supreme Court majority.

CABINET AFFAIRS STAFFING MEMORANDUM

DATE: May 12, 1983 NUMBER: 118678CA DUE BY: May 17, 1983

SUBJECT: Cabinet Council on Legal Policy - Intercircuit Tribunal Proposal

	ACTION	FYI		ACTION	FYI
ALL CABINET MEMBERS	<input type="checkbox"/>	<input type="checkbox"/>	Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Clark	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Treasury	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Darman (<i>For WH Staffing</i>)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Harper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Attorney General	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Jenkins	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Interior	<input checked="" type="checkbox"/>	<input type="checkbox"/>	F. Fielding	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Commerce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Labor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HHS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HUD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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Education	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
Counsellor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
CIA	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
UN	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
USTR	<input type="checkbox"/>	<input checked="" type="checkbox"/>			

CEA	<input type="checkbox"/>	<input type="checkbox"/>	CCCT/Gunn	<input type="checkbox"/>	<input type="checkbox"/>
CEQ	<input type="checkbox"/>	<input type="checkbox"/>	CCEA/Porter	<input type="checkbox"/>	<input type="checkbox"/>
OSTP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CCFA/Boggs	<input type="checkbox"/>	<input type="checkbox"/>
ACUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CCHR/Carleson	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	CCLP/Uhlmann	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	CCNRE/Boggs	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Attached is a paper on the Intercircuit Tribunal Proposal. This issue is scheduled for a Cabinet Council on Legal Policy meeting with the President May 19, 1983. Please review the attached paper and submit comments to the Office of Cabinet Affairs by Noon, Tuesday May 17, 1983.

RETURN TO:

Craig L. Fuller
Assistant to the President
for Cabinet Affairs
456-2823

Becky Norton Dunlop
Director, Office of
Cabinet Affairs
456-2800

SUMMARY OF PROVISIONS IN ECONOMIC EQUITY ACT

Title I - Tax and Retirement Matters

Sec. 101

Extend to married couples a maximum IRA tax deduction equal to twice the maximum deduction allowed individual earners.

Comment: 1981 ERTA permitted non-working spouse to set up own IRA. Because of revenue loss, do not favor expansion of the amount at this time.

Sec. 102

Alimony treated as compensation in determining income tax deduction for IRAs.

Sec. 103

Prohibit waiver of survivor benefits in ERISA plans unless spouse agrees.

Comment: Agree in principle.

Require ERISA plans to pay survivor benefits if participant dies after 10 years service.

Comment: Rejected by CCLP Working Group: (a) complicated to administer; (b) could be very costly, but hard to estimate; (c) could have adverse impact on women -- e.g., reduction of death benefits and incentive for defined contribution plan, employers to shift from annuities to lump sum.

Sections 104 and 105

Provide that pensions can be assigned by divorce courts.

Comment: Agree. Essentially a statutory codification of current practice.

Sec. 106

Lower required participation age for ERISA plans from age 25 to age 21.

Comment: Agree in principle. There are significant administrative problems the way the bill is written. But we are amenable to meeting the policy concern which underlies these sections.

Sec. 107

Counting years of service after age 21 for vesting under retirement plans.

Comment: Same as Sec. 106.

Sec. 108

Continuation of benefit accruals under retirement plans while the employee is on approved maternity or paternity leave.

Comment: Agree in principle, but as with Sections 106-107, believe the interest can be accomodated in a slightly different way.

Sec. 109

Entitle former civil service spouses who were married for at least 10 years the right to pro rata share of pension benefits.

Comment: Courts can now order civil service retirement benefits to be paid to ex-spouse; but court can't control disposition of survivor annuity. OPM opposes Sec. 109: heavy administrative cost; average monthly survivor's annuity is small in any event -- will there really be much benefit where two wives divide the pie?

Sec. 110

Displaced homemakers established as a targeted group for purposes of computing the Targeted Jobs Tax Credit.

Sec. 111

Zero bracket amount for heads of households in determining income tax increased to amount to joint returns.

Comment: Revenue loss = \$1 billion+ by FY 84. Treasury opposes at this time.

Title II - Dependent Care Program

Sec. 201

Increase in the tax credit for expenses for household and dependent care services necessary for gainful employment.

Comment: 1981 ERTA increased with our support. Further increase not favored at this time -- (a) revenue loss; (b) at some point, you end up taxing at-home mothers to subsidize working mothers.

Sec. 202

Certain organizations providing dependent care included within the definition of tax-exempt organizations.

Sec. 203

Tax credit for household and dependent care services necessary for gainful employment made refundable.

Comment: CCEA approved.

Sec. 204

Establish \$8 million dollar grant-in-aid program for child care information and referral services.

Comment: We don't favor new categorical grant programs. Where services are needed, can now be funded under Social Services block grant.

Title III - Nondiscrimination in Insurance

Sections 301-311

Prohibit any sexual classifications in all forms of insurance.

Comment: Complicated issue. The understanding is not helped by calling it a "civil rights" issue. FACT: All but a small % of working women are already covered by non-discriminatory plans. FACT: Women generally benefit from gender classifications in insurance, especially auto and life. In short, the analogy to race is not appropriate. Issue is under review, but we do not want to injure women in the name of eliminating "discrimination".

Title IV - Regulatory Reform and Gender Neutrality

Sections 401 and 402

Review of federal statutes and regulations to eliminate all gender distinctions.

Comment: Already underway; being done on routine basis. Dole bill is the embodiment of our efforts.

Title V - Child Support Enforcement

Sections 501-502

Expands to non-AFDC cases the use of federal income tax refunds to collect past-due child support obligations.

Sec. 503

Requires each state to have a child support clearinghouse with records of past-due payments.

Sec. 504

Requires states to adopt various enforcement mechanisms and procedures.

Sec. 511

Mandates automatic wage withholding for child support obligations in the case of federal employees, subject to certain limitations.

Comment: The tack to take on Child Support Enforcement generally is simple: (1) Note that Ronald Reagan as Governor was the leader in getting the first really effective CSE program up and running. (2) We agree in principle that enhanced CSE measures are both cost-effective and socially beneficial. (3) We will therefore have our own legislative and administrative package.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 13, 1983

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Draft RR Letter to Feldstein re Wage Gap Study
Reference #139070

Attached is the draft letter that you requested.

DRAFT

Dear Martin:

In recent years, much attention has been focused on the fact that the average woman makes less than the average man. The assertion has been made that this pay gap is the result of sex discrimination. Public opinion surveys have shown that a majority of women believe that there is discrimination against women in pay.

It is my understanding that a number of economists who have studied the pay gap have reported that most of it is due to different levels of work experience, and that a significant portion of the remaining pay differential is likewise due to non-discriminatory factors.

I request that the Council of Economic Advisors prepare a report examining the pay gap between men and women. I would like the report to examine the pay gap between men and women doing the same job, as well as the pay gap between the median male and median female worker. Based on existing studies and data, and any further studies you believe appropriate, the report should address the extent to which these pay differences are due to discrimination, whether these differences are increasing or decreasing, and whether there is any evidence that existing laws are helping to eliminate discrimination -- if indeed it is a significant factor causing the pay gap.

Sincerely,

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 5/11/83 ACTION/CONCURRENCE/COMMENT DUE BY: cob Friday, May 13

SUBJECT: Wage Gap Study

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BLEDSON	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	OTHER		
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GALEBACH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GARFINKEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LI	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McALLISTER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ROPER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SWEET	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
UHLMANN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please return this tracking sheet with your response

Edwin L. Harper
 Assistant to the President
 for Policy Development
 (x6515)

THE WHITE HOUSE

WASHINGTON

May 11, 1983

MEMORANDUM FOR MIKE UHLMANN

FROM: EDWIN L. HARPER

SUBJECT: Wage Gap Study

Would you please write up a letter from the President to the Chairman of the CEA asking him to conduct the wage gap study. Perhaps a one-page, single-space letter would do the job.

May I have that by close of business Friday, May 13th?